

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Plow)	Art Unit: 3622
)	
Serial No.: 09/922,201)	Examiner: Lastra
)	
Filed: August 2, 2001)	STL9-2000-0037-US1
)	
For: SYSTEM, METHOD, AND COMPUTER PROGRAM)	February 16, 2007
PRODUCT FOR SELECTIVELY DISPLAYING)	750 B STREET, Suite 3120
INTERNET ADVERTISEMENTS)	San Diego, CA 92101
)	

SUPPLEMENTAL APPEAL BRIEF

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

The appeal shall be reinstated. The fees have been paid.

This responds to the Office Action dated February 14, 2007, clarifying, in response to the order from the Board returning the case to the examiner, that no new rejections were being levied, and withdrawing the Section 101 rejection.

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(1) Real Party in Interest

The real party in interest is IBM Corp.

(2) Related Appeals/Interferences

No other appeals or interferences exist which relate to the present application or appeal.

(3) Status of Claims

Claims 1, 2, 4, 8-12, 14, 16, 19-22, 26, 29, and 30 are pending and finally rejected, and the remaining claims have been canceled.

(4) Status of Amendments

No amendments are outstanding.

(5) Concise Explanation of Subject Matter in Each Independent Claim, with Page and Figure Nos.

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155 (August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that limits the actual claim language.

Claim 1 recites a *computer-implemented* method for selectively displaying Internet advertisements. The method includes allowing a user to choose at least one advertisement channel from an advertisement channel menu (29, figure 3, page 7, lines 3-5) presenting plural advertisement channels, and displaying

advertisements at least partially based on what channel is selected by the user (figure 2, page 6, line 17 continuing to page 7, line 13). The method also includes displaying a menu of user definable advertising attributes (id.) The user definable attributes include at least one of: city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, or wholesale only (page 8, lines 19-22).

The references above are incorporated herein. Claim 11 sets forth a system for selectively displaying Internet advertisements that has a server (22, figure 1, page 5, line 4), a database (24, figure 1, id.) connected to the server, and a user computer (12, figure 1, page 4, line 18) connected to the server via an Internet connection. The server transmits plural Internet advertisements to the user computer, which includes a program for allowing a user of the user computer to determine a type of advertisement to display based on a user selection of one of plural advertisement channels, see references in preceding paragraph. Logic means are provided for displaying a menu of user definable advertisement attributes that include city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, or wholesale only (id.)

The references above are incorporated herein. Claim 22 recites a computer program device (page 6, lines 3-9) with means having logic means for selectively displaying Internet advertisements, including logic means for allowing a user to define advertising attributes, logic means for displaying advertisements at least partially based on the user defined attributes, and means (e.g., the monitors shown in figures 1, 3, and 5) for displaying at least one advertisement corresponding to a user selected advertisement channel. Logic means (figures 2 and 3, page 7, line 9 - page 9, line 20) are provided for displaying a menu of user definable attributes, and logic means (figures 2 and 3, page 7, line 9 - page 9, line 20) allow the user to establish the values of the user definable attributes. The user definable attributes include: advertisement type, city, zip code,

retailers, distance of travel to a retailer, means for delivery, retail only, or wholesale only, see above references.

The references above are incorporated herein. Claim 30 sets forth a computer-implemented method for viewing advertisements on a computer system. The method includes selecting at least one attribute in an advertising window for displaying advertisements (figures 2 and 3, page 7, line 9 - page 9, line 20), and viewing in the advertising window at least one of a series of advertisements corresponding to a selected attribute (figures 2 and 3, page 7, line 9 - page 9, line 20). Each advertisement within the series embodies the selected attribute. The attribute is selected from the group consisting of: advertisement type, city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, wholesale only, and advertisement channel (figures 2 and 3, page 7, line 9 - page 9, line 20).

(6) Grounds of Rejection to be Reviewed on Appeal

(a) Claims 1, 2, 4, 8, 9, 11, 12, 14, 16, 19, 20, 22, 26, 29, and 30 have been rejected under 35 U.S.C. §102 as being anticipated by Rakavy et al., USPN 5,913,040.

(b) Claims 10 and 21 have been rejected under 35 U.S.C. §103 as being unpatentable over Rakavy et al. in view of Smith, USPN 6,615,248.

(7) Argument

As an initial matter, it is noted that according to the Patent Office, a new ground of rejection in an examiner's answer should be "rare", and should be levied only in response to such things as newly presented

arguments by Applicant or to address a claim that the examiner previously failed to address, 69 Fed. Reg. 155 (August 2004), see, e.g., pages 49963 and 49980. Furthermore, a new ground of rejection must be approved by the Technology Center Director or designee and in any case must come accompanied with the initials of the conferees of the appeal conference, *id.*, page 49979.

(a) Anticipation Rejections Based on Rakavy

Independent Claims 1, 11, 22, and 30 now respectively recite limitations that have been rejected based on the allegation that they are taught in Rakavy et al., col. 7, lines 42-62 and col. 9, lines 15-50. In fact, the rejected limitations do not appear anywhere in the cited sections. Column 7 teaches allowing users to configure the system on their desktops. It mentions that a "scheduler" schedules time dependent ads for display, and that a "feedback manager" sends user preferences, statistics, and feedback information to the server. Nowhere does col. 7, lines 42-62 teach or suggest that the user gets to define advertisement attributes that include city and/or zip code and/or retailers and/or distance of travel to a retailer and/or means for delivery and/or retail only and/or wholesale only, as otherwise required by, e.g., Claim 1.

For completeness, Appellant will also slog on and prove another negative, this time about col. 9, lines 15-50. Here, the user is allowed to configure the behavior of the system by inputting and viewing ad category preferences and computer configuration data, the latter including name, disk space, length of time an ad is stored before purging, communication overhead, screen saver delay time, and whether feedback can be sent to the network. Also, included in this section of col. 9 are listings of ad categories by priority and screening, time periods for displaying certain ads, whether wallpaper ads and/or animation are allowed, and the identification of the user's natural language.

But no hint of user-defined city as an ad attribute.

Or user-defined zip code as an ad attribute.

Or user-defined retailers as an ad attribute.

Or user-defined distance of travel to a retailer as an ad attribute.

Or user-defined for delivery as an ad attribute.

Or user-defined retail only as an ad attribute.

Or user-defined wholesale only as an ad attribute.

The new rejection appears to concede as much, repeating, on page 6, last paragraph, that Rakavy teaches delivering ads but then descends again into a *non-sequitur* by commenting, with uncertain relevance, about display time periods, periods during which only sound ads can be played, and whether wallpaper or cursor ads are allowed. But this in no way relates to the above list of specific claim limitations that actually appear in the claims.

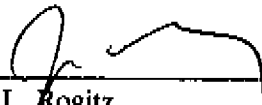
(b) Obviousness Rejections Based on Rakavy and Smith

The proffered suggestion to combine Rakavy et al. with Smith flunks the requirement of MPEP §2143.01. Specifically, nothing in Rakavy et al. motivates one to display both TV and Internet advertising. Smith has nothing to do with advertisements at all (doesn't even mention it); consequently it cannot supply the required *prior art* motivation. Indeed, were these two references to be combined as proposed Rakavy et al. would simply display its Internet ads, along with the TV and Internet non-advertising content of Smith. But that's not what the claims rejected under this section recite.

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APPENDIX A - APPEALED CLAIMS

1. A computer-implemented method for selectively displaying Internet advertisements, comprising the acts of:
 - allowing a user to choose at least one advertisement channel from an advertisement channel menu presenting plural advertisement channels;
 - displaying advertisements at least partially based on what channel is selected by the user;
 - displaying a menu of user definable advertising attributes, wherein the user definable attributes include at least one of: city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, or wholesale only.
2. The method of Claim 1, further comprising the act of:
 - allowing the user to create an advertisement window in which advertisements are displayed.
4. The method of Claim 1, further comprising the act of:
 - allowing the user to establish the values of the user definable attributes.
8. The method of Claim 1, further comprising the act of:
 - displaying at least one advertisement corresponding to a user selected advertisement channel.
9. The method of Claim 1, wherein the advertisement channel menu includes at least one of: a travel advertisement channel, a food advertisement channel, an automotive advertisement channel, a clothing

advertisement channel, a music advertisement channel, a movie advertisement channel, an antiques advertisement channel, a hardware advertisement channel, a sporting goods advertisement channel, a housewares advertisement channel, an art supplies advertisement channel.

10. The method of Claim 1, wherein the advertisements are displayed at a device that receives Internet content and television broadcast content.

11. A system for selectively displaying Internet advertisements, comprising:

at least one server;

at least one database connected to the server, the database storing plural Internet advertisements;

at least one user computer connected to the server via an Internet connection, the server transmitting plural Internet advertisements to the user computer, the user computer including a program for allowing a user of the user computer to determine a type of advertisement to display at least in part based on a user selection of one of plural advertisement channels, wherein the program further comprises:

logic means for displaying a menu of user definable advertisement attributes, wherein the user definable attributes include: city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, or wholesale only.

12. The system of Claim 11, wherein the program comprises:

logic means for allowing a user to define attributes; and

logic means for displaying advertisements at least partially based on the user defined attributes.

14. The system of Claim 11, wherein the program further comprises:

logic means for allowing the user to establish the values of the user definable advertisement attributes.

16. The system of Claim 11, wherein the program further comprises:

logic means for displaying a menu of advertisement channels.

19. The system of Claim 16, wherein the menu of advertisement channels includes at least one of: a travel advertisement channel, a food advertisement channel, an automotive advertisement channel, a clothing advertisement channel, a music advertisement channel, a movie advertisement channel, an antiques advertisement channel, a hardware advertisement channel, a sporting goods advertisement channel, a housewares advertisement channel, an art supplies advertisement channel.

20. The system of Claim 11, wherein the program further comprises:

logic means for allowing the user to create an advertisement window in which advertisements are displayed.

21. The system of Claim 11, further comprising:

at least one television connected to the server via an Internet connection, the server transmitting plural Internet advertisements to the television, the television including a program for selectively displaying Internet advertisements.

22. A computer program device, comprising:

a computer readable means having logic means for selectively displaying Internet advertisements, comprising:

logic means for allowing a user to define advertising attributes;

logic means for displaying advertisements at least partially based on the user defined attributes;

means for displaying at least one advertisement corresponding to a user selected advertisement channel;

logic means for displaying a menu of user definable attributes;

logic means for allowing the user to establish the values of the user definable attributes, wherein the user definable attributes include: advertisement type, city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, or wholesale only..

26. The program device of Claim 22, wherein the computer readable means further comprises:

logic means for displaying a menu of advertisement channels.

29. The program device of Claim 26, wherein the menu of advertisement channels includes at least one of: a travel advertisement channel, a food advertisement channel, an automotive advertisement channel, a clothing advertisement channel, a music advertisement channel, a movie advertisement channel, an antiques advertisement channel, a hardware advertisement channel, a sporting goods advertisement channel, a housewares advertisement channel, an art supplies advertisement channel.

30. A computer-implemented method for viewing advertisements on a computer system, comprising the acts of:

selecting at least one attribute in an advertising window for displaying advertisements; and

viewing in the advertising window at least one of a series of advertisements corresponding to a selected attribute, wherein each advertisement within the series embodies the selected attribute, wherein the attribute is selected from the group consisting of: advertisement type, city, zip code, retailers, distance of travel to a retailer, means for delivery, retail only, wholesale only, and advertisement channel.

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APPENDIX B - EVIDENCE

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

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APPENDIX C - RELATED PROCEEDINGS

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)